

BARRY E. LEVINE, LLC
101 Gibraltar Drive
Suite 2-F
Morris Plains, NJ 07950
BL3155
Phone# (973) 538-2084
Attorney for the Debtor(s)

In the Matter of:

Nicholas Tarsia

Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

CHAPTER 7
CASE NO. 12-15709-DHS
HEARING DATE: MAY 2, 2012

NOTICE OF CROSS-MOTION TO DISMISS CHAPTER 7 BANKRUPTCY
PURSUANT TO 11 USC SECTION 707 (b)

To: James Waldron
Clerk of the Court
US Bankruptcy Court
M. L. King, Jr. Federal Bldg.
50 Walnut Street, 3rd Floor
Newark, NJ 07102

Scott S. Rever, Esq.
Wasserman, Jurista & Stolz, P.C.
225 Millburn Avenue
Suite 207
Millburn, New Jersey 07041

Mr. Nicholas Tarsia
26 Highview Avenue
Totowa, New Jersey 07512

Joseph R. McCarthy, Esq.
Hill Wallack, LLP
202 Carnegie Center
Princeton, New Jersey 08543-5226

Roger Rue, Tax Compliance Representative
New York State Department of Taxation of Finance
Collection and Civil Enforcement Division, Bankruptcy Section
P.O. Box 5300
Albany, New York 12205-0101

Gilbert B. Weisman, Esq.
Becket & Lee, L.P.
P.O. Box 3001
Malvern, PA 19355-0701

Joni Property Trust, LLC
22 Beachfront Lane
New Rochelle, NY 10805
Attn: Joseph F. Spezio, III

PLEASE TAKE NOTICE that on May 2, 2012 @ 10:00 a.m. or soon thereafter as counsel may be heard, the undersigned Barry E. Levine, superseding Attorney for the Debtors, will cross-move before the United States Bankruptcy Court, District of New Jersey, 50 Walnut Street, 3rd Floor, Newark, NJ 07102, for an Order to Dismiss the within Bankruptcy Petition.

PLEASE TAKE FURTHER NOTICE, that the undersigned shall rely upon the annexed application and Debtor's Certification in support of the relief being sought, together with such oral argument as the Court deems necessary.

PLEASE TAKE FURTHER NOTICE, that unless responsive pleadings are filed with the Court and served upon the undersigned in accordance with the provisions of Local Rule 3 of the Bankruptcy Rules as adopted here in New Jersey, the relief being sought herein may be granted without further notice.

PLEASE TAKE FURTHER NOTICE, that a Certification of Counsel is being submitted with this Motion.

A proposed Order is attached.

Dated: May 1, 2012

/s/ Barry E. Levine
Barry E. Levine
Attorney for the Debtor(s)

LEGAL ARGUMENT

The Trustee has filed an application to obtain the proceeds of Notes that are held by the Debtor or other entities. As shown in the Debtor's certification enclosed with this cross-motion, the income from these Notes represents his entire income, which is necessary to support the Debtor, his wife and two teenage daughters.

This bankruptcy petition was filed on March 6, 2012 as a Chapter 7 business bankruptcy. We have still not been able to obtain copies of two of the Notes; however, at this time, the Debtor wishes to dismiss his bankruptcy petition under 11 USC Section 707(b).

The creditors should not be prejudiced by this decision, as the bankruptcy has only been pending for a brief time, and they will return all of their rights once the automatic stay is lifted.

BARRY E. LEVINE, LLC
101 Gibraltar Drive
Suite 2-F
Morris Plains, NJ 07950
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Phone# (973) 538-2084
Attorney for the Debtor(s)

In the Matter of:

Nicholas Tarsia

Debtor(s)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

CHAPTER 7
CASE NO. 12-15709-DHS

HEARING DATE: May 2, 2012

DEBTOR'S CERTIFICATION IN SUPPORT OF MOTION

Nicholas Tarsia, of full age, hereby certifies:

1. I am the Debtor in the above-captioned Chapter 7 Bankruptcy. I make this Certification in support of this Cross-Motion to voluntarily dismiss my bankruptcy petition.
2. I have, in the past, been a successful businessman. However, in the last few years I have suffered a series of financial reversals that have ruined my businesses and left me with huge debts. My businesses have failed, I have lost a series of lawsuits that have resulted in large judgments entered against me, and I owe taxes to the Federal Government, the State of New York and the State of New Jersey.
3. I was compelled to file for bankruptcy protection on an emergent basis on March 6, 2012 after the State of New York put a lien on my bank account. Since that time I have attempted to comply with all of the trustees requirements for documents and

information; however, my financial situation is complex and I have been unable to locate several documents requested by the Trustee.

4. At the present time, I am not employed by any entity and I am not drawing any income from my businesses.

5. My sole income is derived from the following:

a. The Note from JONI Properties, LLC from which I receive \$5,203.33 per month in interest payments. This Note was based on a settlement of a lawsuit. This debt is not secured by a mortgage.

b. There is a Note from FGN, LLC and A&L Associates, LLC which is an entity controlled by my wife. She receives payments of \$2,064.00 per month from this Note. I am still trying to obtain a copy of this Note. This was payment for the sale of a luncheonette.

c. A Note from Bay State Properties originally for \$60,000.00 a private construction company in which I invested. I receive \$2,000.00 per month, which represents \$1,136.00 in principal and interest of \$864.00. I will supply a copy of this Note as soon as I can locate it. This was an unsecured loan.

6. I am currently living in an apartment in Totowa, New Jersey with my wife and our two daughters, ages 16 and 13. The only real estate I own, through

a corporation, is four commercial units, that have no equity due to the large mortgages encumbering them.

7. If the Trustee's Motion is granted, I will be left with no income whatsoever to support a family of four. I filed this bankruptcy due to the pressure from my creditors; however, if my entire income will be turned over, I cannot continue to seek bankruptcy petition as I will suffer extreme hardship. I will have to work with my creditors outside the bankruptcy to pay down all of my debts.

I certify the within matters are true. I know that if any of these statements are willfully false, I am subject to punishment.

Dated: April 30, 2012


Nicholas Tarsia

BARRY E. LEVINE, LLC
101 Gibraltar Drive
Suite 2-F
Morris Plains, NJ 07950
BL3155
Phone# (973) 538-2084
Attorney for the Debtor(s)

In the Matter of:

Eugene P. Kuber and
Phyllis D. Kuber, His Wife

Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

CHAPTER 7
CASE NO. 11-25290-NLW

HEARING DATE: AUGUST 22, 2011

CERTIFICATION OF SERVICE

Donna Zvolensky, of full age, does hereby certify:

1. I am employed in the office of Barry E. Levine, Attorney for the Debtor(s), in the above-entitled matter.

2. On May 1, 2012, copies of:

- Cross-Motion to Dismiss
- Debtor's Certification in support thereof
- Proposed Order
- Certification of Service

Were electronically mailed to:

James Waldron
Clerk of the Court
US Bankruptcy Court
M. L. King, Jr. Federal Bldg.
50 Walnut Street, 3rd Floor
Newark, NJ 07102

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Joni Property Trust, LLC
22 Beachfront Lane
New Rochelle, NY 10805
Attn: Joseph F. Spezio, III

I hereby certify that the foregoing statement(s) made by me are true; I am aware that if any of the foregoing statement(s) made by me are willfully false, I am subject to punishment.

Dated: May 1, 2012

/s/ Donna Zvolensky
Donna Zvolensky

BARRY E. LEVINE, LLC
101 Gibraltar Drive
Suite 2-F
Morris Plains, NJ 07950
BL3155
Phone (973) 538-2084
Attorney for the Debtor(s)

In the Matter of:

Nicholas Tarsia

Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

CHAPTER 7
CASE NO. 12-15709-DHS
HEARING DATE: MAY 2, 2012

ORDER DISMISSING CASE

The relief set forth on the following pages, numbered two (2) is hereby ORDERED.

Upon consideration of the application of Barry E. Levine for an Order Dismissing the Chapter 7 Bankruptcy Case, and for good cause shown, it is

ORDERED, as follows:

1. The within Chapter 7 Bankruptcy is hereby dismissed.

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY Caption in Compliance with D.N.J. LBR 9004-2(c)	
BARRY E. LEVINE, LLC 101 GIBRALTAR DRIVE, 2F MORRIS PLAINS, NJ 07950 ATTORNEY FOR DEBTOR	
In Re:	
NICHOLAS TARSIA	

Case No.: 12-15709-DHS
Chapter: 7
Adv. No.: _____
Hearing Date: MAY 2, 2012
Judge: DONALD H. STECK

CERTIFICATION OF SERVICE

1. I, DONNA M. ZVOLENSKY :

- ☐ represent the _____ in the above-captioned matter.
- ☒ am the secretary/paralegal for BARRY E. LEVINE, who represents the
DEBTOR in the above captioned matter.
- ☐ am the _____ in the above case and am representing myself.

2. On _____, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below:

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: APRIL 30, 2012

/S/DONNA M. ZVOLENSKY
Signature

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
JAMES WALDRON, CLERK US BANKRUPTCY COURT ML KING JR., FEDERAL BUILDING 50 WALNUT STREET, 3RD FLOOR NEWARK, NEW JERSEY 07102		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
SCOTT S. REVER, ESQ. WASSERMAN, JURISTA & STOLZ, P.C. 225 MILLBURN AVENUE SUITE 207 MILLBURN, NEW JERSEY 07041		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input checked="" type="checkbox"/> Other <u>Fax Transmission</u> (as authorized by the court *)
JOSEPH R. MCCARTHY, ESQ. HILL WALLACK, LLP 202 CARNEGIE STREET PRINCETON, NEW JERSEY 08543-5226 ROGER RUE, TAX COMPLIANCE REPRESENTATIVE NEW YORK STATE DEPARTMENT OF TAXATION OF FINANCE		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
MR. NICHOLAS TARSIA 26 HIGHVIEW AVENUE TOTOWA, NJ 07512		<input checked="" type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)